

# SENATE BILL 228

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SB 1056/09 – SRU

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By: **Senator Mooney**

Introduced and read first time: January 22, 2010

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Incinerator Permits – Conditions for Issuance**

3 FOR the purpose of prohibiting the Department of the Environment from issuing a  
4 permit to construct an incinerator unless certain conditions are met; prohibiting  
5 local jurisdictions from issuing a building permit for an incinerator unless  
6 certain conditions are met; providing for the application of this Act; providing  
7 that existing obligations or contract rights may not be impaired by this Act; and  
8 generally relating to the conditions for issuing a permit for an incinerator.

9 BY repealing and reenacting, without amendments,  
10 Article – Environment  
11 Section 2–401  
12 Annotated Code of Maryland  
13 (2007 Replacement Volume and 2009 Supplement)

14 BY adding to  
15 Article – Environment  
16 Section 2–401.1  
17 Annotated Code of Maryland  
18 (2007 Replacement Volume and 2009 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Environment**

22 2–401.

23 Except as provided in § 2–402 of this subtitle, the Department may adopt  
24 regulations that require a permit or registration before a person constructs, modifies,  
25 operates, or uses a source that may cause or control emissions into the air.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **2-401.1.**

2 **(A) THE DEPARTMENT MAY NOT ISSUE A PERMIT TO CONSTRUCT AN**  
3 **INCINERATOR UNLESS THE INCINERATOR:**

4 **(1) IS OR WOULD BE LOCATED:**

5 **(i) IN AN AREA THAT IS ZONED FOR HEAVY INDUSTRIAL**  
6 **ACTIVITY; AND**

7 **(ii) AT LEAST 3 MILES FROM THE PROPERTY BOUNDARY**  
8 **LINE OF ANY RESIDENTIAL DWELLING, CHURCH, SCHOOL, PARK, OR HOSPITAL;**  
9 **AND**

10 **(2) MEETS THE ZONING REQUIREMENTS OF THE LOCAL**  
11 **JURISDICTION IN WHICH THE INCINERATOR IS OR WOULD BE LOCATED.**

12 **(B) A LOCAL JURISDICTION MAY NOT ISSUE A BUILDING PERMIT FOR AN**  
13 **INCINERATOR UNLESS THE INCINERATOR MEETS THE REQUIREMENTS SET**  
14 **FORTH IN SUBSECTION (A) OF THIS SECTION.**

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
16 construed to apply only prospectively and may not be applied or interpreted to have  
17 any effect on or application to any incinerator in existence for which all necessary  
18 permits for construction, modification, operation, or use have been issued before the  
19 effective date of this Act. If the construction, modification, operation, or use of an  
20 incinerator is allowed to continue in accordance with this section:

21 (1) the use may not be expanded; and

22 (2) if abandoned, the use may not be resumed.

23 SECTION 3. AND BE IT FURTHER ENACTED, That a presently existing  
24 obligation or contract right may not be impaired in any way by this Act.

25 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2010.